



O1 Communications, Inc. and Teliax, Inc. Presentation to the
Wireline Competition Bureau
WC Docket No. 10-90; CC Docket No. 01-92
September 18, 2018

CenturyLink's Petition for Declaratory Ruling
on the VoIP Symmetry Rule

CenturyLink's Petition Should be Granted

The Commission should confirm its previous holding that end office switched access charges apply to “over the top” VoIP calls when a LEC or its VoIP partner perform the end office functions

If the Commission were to reverse its precedent and hold that VoIP services are not the functional equivalent of end office switching, it should only apply the new rule prospectively

The Commission should confirm its policy against self-help non-payment by IXC's and adopt processes to enforce it

OTT VoIP Services Are Subject to Access

The Commission should confirm that over the top VoIP services are the functional equivalent of end office switching

- Sound engineering principles support the decision
- Ownership of the last mile loop is not required to perform end office switching functions
- Commission precedent and sound public policy favor granting CenturyLink's Petition

If the FCC Reverses Policy, It Should not be Retroactive

If the Commission reverses previous precedent, it should only apply the new law prospectively

- Holding that over the top VoIP services are not the functional equivalent of end office switching would substitute new law for clear old law
- Applying any new law prospectively only would protect expectations of the carriers that complied with the 2015 Declaratory Ruling, which included a holding that the 2011 Connect America Order intended the VoIP Symmetry Rule to apply to over the top VoIP services
- Applying any new law retroactively would punish carriers that complied with the old law, be contrary to Commission goals of promoting the transition to Internet Protocol and adopting a symmetrical approach to VoIP-PSTN intercarrier compensation and result in manifest injustice

The FCC Must Confirm Its Policy against Self-Help

The Commission should confirm its policy against self-help non-payment

- Words of caution have not been sufficient to stop AT&T and Verizon from unilaterally withholding payment of switched access charges based on little or no legal or factual support
- These tactics debilitate a LEC's ability to operate; cash flow is impaired and opportunities are foregone
- The IXC's force LECs to engage in time and resource intensive, expensive litigation or settle on terms that compromise a LEC's legal rights
- Lack of Commission enforcement and inconsistent enforcement by the courts effectively reward self-help non-payment
- To remedy the abuse, the Commission should confirm its policy, adopt processes to enable expedient resolution of the issue and issue penalties